Raja Segaran a/l Krishnan v Bar Malaysia & Ors

HIGH COURT (KUALA LUMPUR) — CIVIL SUIT NO S2–23–33 OF 2000
KAMALANATHAN RATNAM J
22 JUNE 2000

Civil Procedure *— Jurisdiction — Court — Division of court — Whether purely administrative — Application for injunction and declaration of contempt — Whether suit ought to be heard in civil division of High Court — Practice Direction 1/89*

Civil Procedure *— Judge — Application to recuse judge — Malaysian Bar party to suit — Son of learned judge also member of Bar — Judge heard another case between same parties — Whether judge derive interest by son being member of Bar if judge hear suit*

Legal Profession *— Malaysian Bar — Right to hold extraordinary general meeting — Serious allegation against Chief Justice — Resolution to remove or suspend Chief Justice — Whether any basis to call for meeting*

The plaintiff — a member of the Malaysian Bar — filed a civil suit against the first defendant ('the Malaysian Bar') and 11 others being the Exco members of the first defendant. The suit was in response to a circular of the Bar Council dated 8 June 2000 and addressed to all members of the Bar Council whereby the executive committee has unanimously recommended the convening of an extraordinary general meeting of the Malaysian Bar to deliberate and pass resolutions on matters relating to the allegations made by Datuk Dr Rais Yatim against the Chief Justice. The plaintiff, inter alia, has prayed for various declarations including a declaration that the public statement and the proposed resolution and the proposed general meeting and the publication of the purported notice in the press, constitute contempt of court. Upon filing the suit, the plaintiff immediately took out a summons and prayed for an injunction to stop the first defendant from holding the extraordinary general meeting on 23 June 2000. However, counsel for the defendant argued that pursuant to Practice Direction 1/89, the learned High Court judge had no jurisdiction to hear the case as all matters relating to injunctions ought to be filed at the Appellate and Special Powers Division of the High Court. The defendant also argued that the learned judge ought to recuse himself from hearing this case because he had heard another case, namely *Raja Segaran a/l S Krishnan v Bar Council Malaysia & Ors* [2000] 1 MLJ 1 wherein the same plaintiff applied also to stop the Malaysian Bar from holding an EGM. Counsel for the defendant also argued that as the son of the learned judge is a member of the Bar, it would be improper for him to hear the matter. The defendant relied on *Lockabail (UK) Ltd v Bayfield Properites Ltd* [2000] 1 All ER 65 where it was held that where the judge's interest is said to derive from the interest of the spouse, partner or other family member, the link must be so close and direct as to render the interest of that other person, for all practical purposes, indistinguishable from an interest of the judge himself.

Held, granting the injunction: A

(1) The High Court is a properly constituted court and pursuant to the Courts of Judicature Act 1964, the court has the power to hear all matters filed in West Malaysia. The question of division of work is purely administrative. There is therefore no question of the court having no jurisdiction to hear the matter. There was a B specific prayer seeking a declaration that the first defendant and its agents were in contempt. Since this court is the designated court to hear all contempt matters and so long as there is a prayer for contempt in the pleadings, then all matters in respect of this particular suit ought to be heard in the court. The plea of lack of jurisdiction was ill-founded (see p 571A–D). C

(2) The issues before the court were not similar issues as found in the earlier case (*Raja Segaran a/l S Krishnan v Bar Council Malaysia & Ors* [2000] 1 MLJ 1). There was no reason why the learned judge ought to be asked to recuse himself (see p 577E–F). In matters relating to the allegations involving the Chief Justice being the D subject of the proposed amendment and the subject of the defence in the other suit, the learned judge had not heard these matters and it was totally misleading to say that the judge have heard the matters (see p 577H–I).

(3) The defendant had totally misconstrued the rationale behind the E statement of *Lockabail (UK) Ltd v Bayfield Properties Ltd* [2000] 1 All ER 65. What their Lordships intended was that if a member of the judge's family was a director or a shareholder of a company, then it would be improper for the judge to sit in judgment where the said company is involved. But in the case before the court, every practising lawyer is compulsorily bound by the Legal F Profession Act 1976 to be a member of the Malaysian Bar, failing which he will not be issued with a practising certificate. Further, there can be no interest that the judge can derive by his son being a member of the Bar if he were to hear the case (see p 578D–E).

(4) Whilst the Malaysian Bar was making a serious allegation by G calling for the suspension of the Chief Justice or for his removal, they were prepared to do so on mere unsupported allegations without even giving any thought to the principle of natural justice by seeking confirmation from Datuk Dr Rais Yatim if the contents of the report as contained in the newspaper cutting as attributed to him were actually spoken by him. There is no doubt that there H were times when the Press did not always report what was actually said (see pp 579H–580A). The Bar also did not accord the Chief Justice the right to be heard before they even thought of convening the meeting (see p 580G). There was no basis to call for an extraordinary general meeting on allegations attributed to someone who has not even been asked to verify its truth. There I was no need for the court to ask the plaintiff to even go into the merits of his application (see p 580I).

A [**Bahasa Malaysia summary**

Plaintif — seorang ahli Majlis Peguam Malaysia — telah memfailkan tindakan sivil terhadap defendan pertama ('Majlis Peguam Malaysia') dan 11 yang lain yang merupakan ahli Exco defendan pertama. Tindakan tersebut adalah tindak-balas berikutan suatu surat B pekeliling Majlis Peguam yang bertarikh 8 Jun 2000 dan dialamatkan kepada semua ahli Majlis Peguam di mana jawatankuasa eksekutif dengan sebulat suara mencadangkan persidangan mesyuarat tergempar Majlis Peguam Malaysia untuk mempertimbangkan dan meluluskan resolusi-resolusi berkenaan perkara yang berkaitan dengan pengataan-pengataan yang dibuat oleh Datuk Dr Rais Yatim C terhadap Ketua Hakim Negara. Plaintif tersebut, antara lain, telah memohon untuk pelbagai deklarasi termasuk suatu deklarasi bahawa kenyataan awam dan resolusi yang dicadangkan dan mesyuarat awam yang dicadangkan dan penerbitan notis yang dikatakan di dalam akhbar, terjumlah kepada penghinaan mahkamah. Selepas D memfailkan tindakan tersebut, plaintif secara terus mengeluarkan saman dan memohon untuk suatu injunksi untuk menghalang defendan pertama daripada mengadakan mesyuarat tergempar pada 23 Jun 2000. Namun, peguam untuk defendan menghujahkan bahawa menurut Arahan Amalan 1/89, hakim mahkamah yang arif tidak mempunyai bidang kuasa untuk mendengar kes tersebut kerana E semua perkara berkenaan injunksi sepatutnya difailkan di Bahagian Rayuan dan Kuasa-kuasa Khas Mahkamah Tinggi. Defendan juga menghujahkan bahawa hakim yang arif patut mengelak dirinya daripada mendengar kes ini kerana beliau telah mendengar kes yang lain, iaitu *Raja Segaran a/l S Krishnan v Bar Council Malaysia & Ors* [2000] 1 MLJ di mana plaintif yang sama memohon untuk F menghalang Majlis Peguam daripada mengadakan mesyuarat tergempar. Peguam untuk defendan juga menghujahkan bahawa oleh kerana anak lelaki hakim yang arif adalah ahli Majlis Peguam, adalah tidak wajar baginya untuk mendengar perkara tersebut. Defendan bergantung kepada *Lockabail (UK) Ltd v Bayfield Properties Ltd* [2000] 1 All ER 65 di mana diputuskan bahawa di mana kepentingan hakim G adalah dikatakan berpunca daripada kepentingan pasangannya, rakan kongsi atau ahli keluarga yang lain, pertalian mestilah sebegitu dekat dan terus untuk menjadikan kepentingan orang lain, bagi segala tujuan, tidak dapat dibezakan daripada kepentingan hakim itu sendiri.

H

Diputuskan, membenarkan injunksi tersebut:

(1) Mahkamah Tinggi adalah mahkamah yang diwujudkan dengan wajar dan menurut Akta Mahkamah Kehakiman 1964, mahkamah mempunyai kuasa untuk mendengar semua I perkara yang difailkan di Malaysia Barat. Persoalan pembahagian kerja adalah bersifat tadbir (administrative) sahaja. Maka tiada persoalan mahkamah tiada bidang kuasa untuk

mendengar perkara tersebut. Terdapat permohonan yang spesifik memohon untuk deklarasi bahawa defendan pertama atau ejen-ejennya melakukan penghinaan. Oleh kerana mahkamah ini adalah mahkamah yang dikhaskan untuk mendengar semua perkara berkenaan penghinaan dan selagi terdapat permohonan penghinaan di dalam pliding-pliding, maka semua perkara berkenaan tindakan ini patut didengar di mahkamah. Hujahan kekurangan bidang kuasa adalah tidak berasas (lihat ms 571A–D).

(2) Isu-isu di hadapan mahkamah bukanlah isu-isu yang sama seperti yang terdapat di dalam kes terdahulu (*Raja Segaran a/l S Krishnan v Bar Council Malaysia & Ors* [2000] 1 MLJ 1). Tiada alasan mengapa hakim yang arif patut diminta untuk mengelak diri daripada mendengar kes (lihat ms 577E–F). Di dalam perkara berkenaan dengan pengataan-pengataan yang melibatkan Ketua Hakim Negara yang merupakan subjek pindaan yang dicadangkan dan subjek pembelaan di dalam tindakan yang lain, hakim yang arif belum mendengar perkara-perkara tersebut dan adalah mengelirukan sepenuhnya untuk mengatakan bahawa hakim telah mendengar perkara-perkara tersebut (lihat ms 577H–I).

(3) Defendan telah salah tafsir sepenuhnya rasional di sebalik kenyataan *Lockabail (UK) Ltd v Bayfield Properties Ltd* [2000] 1 All ER 65. Apa yang para hakim niatkan adalah bahawa jika seorang ahli keluarga hakim adalah pengarah atau pemegang saham syarikat, maka adalah tidak wajar bagi hakim menghakimi di mana syarikat tersebut adalah terlibat. Tetapi di dalam kes di hadapan mahkamah, setiap peguam yang sedang mengamal adalah diwajibkan oleh Akta Profesion Guaman 1976 untuk menjadi ahli Majlis Peguam Malaysia, kegagalan di mana beliau tidak akan diberikan sijil mengamal. Selanjutnya, tiada kepentingan yang boleh diperoleh oleh hakim dengan anak lelakinya menjadi ahli Majlis Peguam jika beliau mendengar kes tersebut (lihat ms 578D–E).

(4) Sementara Majlis Peguam telah membuat suatu pengataan yang serius dengan meminta penggantungan Ketua Hakim Negara atau pemecatannya, mereka bersedia untuk berbuat demikian dengan pengataan-pengataan yang tidak berasas tanpa mempertimbangkan prinsip keadilan semulajadi dengan mendapatkan pengesahan Datuk Rais Yatim sama ada kandungan laporan yang terdapat di dalam keratan akhbar sebagai dikaitkan dengannya sebenarnya telah dikatakan olehnya. Tidak disangsikan bahawa terdapat masa di mana liputan akhbar tidak melaporkan apa yang sebenarnya dikatakan (lihat ms 579H–580A). Majlis Peguam juga tidak memberikan Ketua Hakim Negara hak untuk didengar sebelum terlintas di dalam fikiran mereka untuk mengadakan mesyuarat tersebut (lihat ms 580G). Tiada asas untuk memanggil mesyuarat tergempar

atas pengataan-pengataan yang dikaitkan dengan seseorang yang belum ditanya untuk menentusahkan akan kebenaran tersebut. Tiada keperluan untuk mahkamah meminta plaintif untuk mendengar merit permohonannya (lihat ms 580I).]

Notes

For cases on jurisdiction of court, see 2(2) *Mallal's Digest* (4th Ed, 1998 Reissue) paras 2872–2823.

For a case on judge generally, see 2(2) *Mallal's Digest* (4th Ed, 1998 Reissue) para 2476.

For cases on Malaysian Bar generally, see 9 *Mallal's Digest* (4th Ed, 1999 Reissue) paras 1580–1588.

Cases referred to

C Ravichandran Iyer v Justice AM Bhattacharjee & Ors [1995] 5 SCC 457 (refd)

Lockabail (UK) Ltd v Bayfield Properties Ltd & Anor [2000] 1 All ER 65 (refd)

Raja Segaran a/l S Krishnan v Bar Council Malaysia & Ors [2000] 1 MLJ 1 (refd)

Wee Choo Keong v MBf Holdings Bhd & Anor and another appeal [1995] 3 MLJ 549 (refd)

Legislation referred to

Courts of Judicature Act 1964
Legal Profession Act 1976
Practice Direction 1/89
Rules of the High Court 1980 O 41 r 5(2)

DP Vijandran (*P Selvaraj* with him) (*DP Vijandran & Associates*) for the plaintiff.

Mohamad Ariff bin Md Yusof (*Ambiga Sreenevasan, Ranjit Singh, Christopher Leong* and *Gopal Sreenevasan* with him) (*Chooi & Co*) for the defendants.

Kamalanathan Ratnam J:

Facts

The plaintiff is a member of the Malaysian Bar. The first defendant is a body corporate established under the Legal Profession Act 1976. For the purposes of the present application, only the first defendant is involved. The plaintiff filed a civil suit against the first defendant and 11 others being the Exco members of the first defendant. The matter that initiated the filing of this suit was a circular of the Bar Council dated 8 June 2000 and addressed to all members of the Bar Council which reads as follows:

By Fax only Amended
Very Urgent

Members of the Bar Council

Re: Extraordinary General Meeting of the Malaysian Bar

The Executive Committee has unanimously recommended the convening of an Extraordinary General Meeting of the Malaysian Bar to be held as soon as possible to deliberate and pass resolutions on matters relating to the allegations made by Datuk Dr Rais Yatim against the Chief Justice.

Exco will meet again on Thursday, 8 June 2000 at 5.30 pm to consider the resolutions to be tabled at the forthcoming EGM.

Could members of the Bar Council kindly respond by telephone or fax to reach Catherine or me by 4pm Thursday 8 June 2000 whether they support the Exco recommendation.

Dated: 8 June 2000

Sgd

Haji Kuthubul Zaman Bukhari
Secretary

Then again on 10 June 2000 the Exco issued a public statement entitled Bar Council public statement on the proposed general meeting of the Bar. The plaintiff, inter alia, has prayed for various declarations including a declaration that the said public statement and the proposed resolution and the proposed general meeting and the publication of the purported notice in the Press, constitute contempt of court. There was also a prayer for an interim and a permanent injunction with damages and costs.

Upon filing the said suit the plaintiff immediately took out a summons and prayed for an injunction to stop the first defendant or its servants or agents from holding the extraordinary general meeting on 23 June 2000 and for consequential reliefs and costs. As the matter was of extreme urgency, I decided to hear the case immediately.

Findings of the court

Encik Ariff Yusof for the defendant indicated that he would take preliminary objections on the plaintiff's case.

Jurisdiction of the court

Referring to Practice Direction 1/89, En Ariff argued that I had no jurisdiction to hear this case simply because pursuant to the said Practice Direction all matters relating to injunctions ought to be filed at the Appellate and Special Powers Division of the High Court. As against this Mr DP Vijandran pointed out that litigants merely file in the division they think their case ought to be heard. As the present case was geared towards contempt proceedings and as the solicitor for the plaintiff he was of the view that since the latest Practice Direction dated 20 October 1999 had directed that all matters relating to libel, slander, contempt and matters relating to foreclosure and caveat ought to be filed in Court 2 of the Civil Division of

A the High Court, he elected to file this matter in this court. Further he also pointed out that pursuant to the said circular from the Chief Judge Malaya I had no power to transfer this case on my own volition to any other judge.

There is a short answer to this objection. This court is a properly constituted court and pursuant to the Courts of Judicature Act 1964 I have
B the power vested upon me to hear all matters filed in West Malaysia. The question of division of work is purely administrative and to facilitate control of the matters within his jurisdiction, the Chief Judge had created various divisions. There is therefore no question of this court having no jurisdiction to hear this matter.

C In any case perusing the writ I find that there is a specific prayer seeking a declaration that the first defendant and its agents are in contempt. It cannot be the case of the defendant that I hear only this prayer and then transfer the file with the directions of the Chief Judge to another judge of another division to hear the rest of the prayers. Nor can it be argued that the plaintiff ought to file for contempt before me and seek his remedies in
D respect of the other prayers by filing another suit to be heard by another judge. Since this court is the designated court to hear all contempt matters and so long as there is a prayer for contempt in the pleadings then all matters in respect of this particular suit ought to be heard in this court. The plea of lack of jurisdiction is ill-founded.

E Judge to recuse himself

It was the case of the defendant that I ought to recuse myself from hearing this case because I had heard another case, namely, *Raja Segaran a/l S Krishnan v Bar Council Malaysia & Ors* [2000] 1 MLJ 1 wherein the same
F plaintiff applied to also stop the Malaysian Bar from holding an EGM. Having said this, I was astounded to hear En Ariff submit that it is the case of the defendants that the issues before me today are not similar to the issues as found in the earlier case. If the issues are not the same then I see no reason why I have been asked to recuse myself. In response to this, Mr DP Vijandran referred me to paras 21 and 22 of his client's affidavit in support
G of the application for this injunction. He pointed out that in Kuala Lumpur High Court Civil Suit No S2–23–42–1996 where there was an application to amend the defence and which application I had refused and which is now under appeal, and in Kuala Lumpur High Court Civil Suit No S2–23–93–99 where the said proposed amendment had already been incorporated as part of the defence, and that in both these cases I had actually not decided
H on the allegations contained in the proposed amendment nor had I heard the matter in the other civil suit. Therefore, he argued that it was wrong for the defence to say that I ought to recuse myself on the basis that I had heard the matter. Having checked through the facts I agree with Mr Vijandran that in these matters relating to the allegations involving the Chief Justice being the subject of the proposed amendment and the subject of the defence
I in the other suit, I have actually not heard these matters and that since these were not put for decision before me, it is totally misleading to say that I have heard the matters. The allegation has only been put as part of the

defendant's case in S2–23–93–99. There is therefore no merit in this argument.

Judge's son being a member of the Bar

The next argument of the defence was that since my son is a member of the Bar it would be improper for me to hear this matter because there might be a perception that if I grant the injunction then I might reflect my son's views or if I refuse the injunction, it might be perceived that I was favouring my son's membership of the Bar. The defendant relied on *Lockabail (UK) Ltd v Bayfield Properites Ltd & Anor* [2000] 1 All ER 65 and in particular to p 71 of the judgment where their Lordships in handing down the judgment said as follows:

> In any case where the judge's interest is said to derive from the interest of a spouse, partner or other family member the link must be so close and direct as to render the interest of that other person, for all practical purposes, indistinguishable from an interest of the judge himself.

To my mind the defendant has totally misconstrued the rationale behind this statement. What their Lordships intended was that if a member of the judge's family was a director or a shareholder of a company then it would be improper for the judge to sit in judgment where the said company is involved. This is common sense and the judge ought not to hear the case to avert any allegation of bias or partiality. But in this case, every practising lawyer is compulsorily bound by the Legal Profession Act 1976 to be a member of the Malaysian Bar, failing which he will not be issued with a practising certificate. Further, there can be no interest that the judge can derive by his son being a member of the Bar if he were to hear this case. A very recent decision, namely, *Hampshire County Council v Gillingham & Anor* of the English Court of Appeal handed down on 5 April 2000 and obtained through Mr DP Vijandran's research via the Internet, was of great assistance to this court. The case is therefore not reported and I have to merely rely on the date it was delivered for its reference. In that case, their Lordships in the Court of Appeal clearly expounded the distinction between a private and the public right affecting the question of partiality and the need for a judge to recuse himself. The case itself is highly complicated in relation to the facts and therefore I do not intend to narrate the facts. Suffice it for me to say that Brooke LJ said at p 13 of the said judgment as follows:

> In my judgment there is no good reason for setting aside this judgment on the basis that there was a real danger of bias arising from the fact that judge Rudd tried the case. The fact that he took the precaution of recusing himself in connection with the action concerned with determining Mr Drummond's private rights once the Gillinghams had shown themselves sensitive to the prospect of having that case tried by any judge who had any prior knowledge of Mr Drummond, cannot possibly mean, in itself, that he should have recused himself in determining this action which was concerned not with private rights but with public rights.

In the case before me the defendant argues that the conduct of the Chief Justice is a matter of public concern. Since it is their own contention that

the matter relates to the public's right to discuss this matter, clearly therefore my son being a member of the Bar cannot be a reason for me to recuse myself. I am further disheartened that the members of the Bar with such large membership could not have the benefit of the same Internet research that Mr DP Vijandran had, for, if they had been equally indulgent there might have been no need to have taken this futile point at all.

On the above findings I dismissed the preliminary objections with costs to be taxed and to be paid to the plaintiff in any event. I then proceeded to hear the substantive application. Before Mr Vijandran could proceed with his application, the court asked Encik Ariff the following questions:

> Court: To be fair to Datuk Dr Rais Yatim has he in fact made any allegations against the Chief Justice since you have in your circular referred to the allegations made by Datuk Dr Rais Yatim? Have you written to Datuk Dr Rais Yatim for his confirmation that he stands by what is attributed to him as his report at p 17 to encl 8 being the affidavit of Haji Sulaiman Abdullah?
>
> En Ariff: The answer, my Lord, is no.

At p 17 of encl 8, the defendant had exhibited a newspaper report allegedly made by the Minister in the Prime Minister's Department, Datuk Dr Rais Yatim. It is obvious therefore that there is no basis for the Malaysian Bar to contend that there were allegations made by Datuk Dr Rais Yatim. Whilst conceding that all the reports were hearsay evidence Encik Ariff argued by referring to O 41 r 5(2) of the Rules of the High Court 1980 ('the RHC') which reads as follows:

> An affidavit sworn for the purpose of being used in interlocutory proceedings may contain statements of information or belief with the sources and grounds thereof.

And in support of this Encik Ariff referred me to the judgment of the Supreme Court in *Wee Choo Keong v MBf Holdings Bhd & Anor and another appeal* [1995] 3 MLJ 549 where Chong Siew Fai CJ (Sabah and Sarawak) had held that although hearsay evidence in affidavit is admissible under O 41 r 5(2) of the RHC, the court should ensure that no injustice results from its admission. I whole-heartedly accept this view. Great injustice would befall Datuk Dr Rais Yatim, the Chief Justice and all others reportedly having made statements whose quotations have been exhibited by the defendant, if they deny having made such statements. It would have been a simple process for the Malaysian Bar to have obtained a simple letter from Datuk Dr Rais Yatim stating that he stands by the report attributed to him. In any case, Mr Vijandran pointed out that in the affidavit of Haji Sulaiman Abdullah (encl 8) there is no statement by him that he believes the contents to be true. It seems to me that whilst the Malaysian Bar is making a serious allegation by calling for the suspension of the Chief Justice or for his removal, they are prepared to do so on mere unsupported allegations without even giving any thought to the principle of natural justice by seeking confirmation from Datuk Dr Rais Yatim if the contents of the report as contained in the newspaper cutting as attributed to him were actually spoken by him. There is no doubt that there are times when the

Press does not always report what was actually said. It is very relevant to refer to the decision of the Indian Supreme Court in *C Ravichandran Iyer v Justice AM Bhattacharjee & Ors* [1995] 5 SCC 457 where K Ramaswamy J said at p 479 as follows:

> The threat of action on vague grounds of dissatisfaction would create a dragnet that would inevitably sweep into its grasp the maverick, the dissenter, the innovator, the reformer — in one word, the unpopular. Insidious attempts pave way for removing the inconvenient. Therefore, proper care should be taken by the Bar Association concerned. First, it should gather specific, authentic and acceptable material which would show or tend to show that conduct on the part of a judge creating a feeling in the mind of a reasonable person doubting the honesty, integrity, impartiality or act which lowers the dignity of the office but necessarily, is not impeachable misbehaviour. In all fairness to the judge, the reasonable office bearers should meet him in camera after securing interview and apprise the judge of the information they had with them. If there is truth in it, there is every possibility that the judge would mend himself. Or to avoid embarrassment to the judge, the office bearers can approach the Chief Justice of that High Court and apprise him of the situation with material they have in their possession and impress upon the Chief Justice to deal with the matter appropriately.

In this case, it is obvious to me that what the Bar says is we say, that the newspaper says that Dr Rais Yatim says, so and so. As put by Mr Vijandran, this is hearsay thrice compounded. The Bar Council in its public statement on the proposed general meeting of the Bar said the Bar as the natural friends, protectors and guardians of the sanctity of the judiciary is left with no option but to examine the whole matter and proposed solutions at a general meeting. It seems paradoxical that having proclaimed itself as the friend, protector and guardian of the sanctity of the judiciary, the Malaysian Bar has totally ignored the basic precept of failing in its duty to listen to the other side. It listened albeit to unsupported statements allegedly attributed to the Minister in the Prime Minister's Department and it rushed head on with its avowed aim of calling a meeting to discuss publicly no doubt within its confines, the conduct and behaviour of the highest official of the judiciary. Yet whilst pretending to protect the sanctity of the judiciary, it did not accord the Chief Justice the right to be heard before they even thought of convening this meeting. Ms Ambiga S also for the defence submitted that the Bar was not concerned with the truth or otherwise of the allegations but that they were actually defending the institution of the administration of justice and that because there is a public debate raging they wish to debate it themselves. Is not this condemning a person even without hearing that person. If the Malaysian Bar is not concerned with the truth or otherwise of the allegations but want to have this meeting only to satiate their hunger for a public debate over the Chief Justice by wresting the discussion from the general public and by so doing trying to show that they are protecting the sanctity of the judiciary, it seems to me that this effort is totally misconceived. To my mind there is no basis to call for an extraordinary general meeting on allegations attributed to someone who has not even been asked to verify its truth. There is no need for me to ask the plaintiff to even go into the merits of his application. On this one basic preliminary

issue alone the first defendant has been unable to satisfy me. I therefore grant the plaintiff an order injuncting the first defendant or its servants or agents from convening the extraordinary general meeting fixed for 23 June 2000. I also order that the first defendant pay the plaintiff the costs of this application to be taxed.

Order accordingly.

Reported by Benjamim Yong